

PATENT COOPERATION TREATY

From the INTERNATIONAL SEARCHING AUTHORITY

Fenster & Co.

24-05-2005

Docketed by *RW*

To:
PAUL FENSTER
FENSTER & COMPANY, INTELLECTUAL PROPERTY
2002 LTD.
P.O. BOX 10256
PETACH TIKVA, ISRAEL 49002

PCT

NOTIFICATION OF TRANSMITTAL OF
THE INTERNATIONAL SEARCH REPORT AND
THE WRITTEN OPINION OF THE INTERNATIONAL
SEARCHING AUTHORITY, OR THE DECLARATION

(PCT Rule 44.1)

Applicant's or agent's file reference 110/03833	Date of mailing (day/month/year) 13 MAY 2005
International application No. PCT/IL04/00923	International filing date (day/month/year) 06 October 2004 (06.10.2004)
Applicant DISC-O-TECH MEDICAL TECHNOLOGIES, LTD	
FOR FURTHER ACTION See paragraphs 1 and 4 below	

1. ☒ The applicant is hereby notified that the international search report and the written opinion of the International Searching Authority have been established and are transmitted herewith.

Filing of amendments and statement under Article 19:
 The applicant is entitled, if he so wishes, to amend the claims of the international application (see Rule 46):

When? The time limit for filing such amendments is normally two months from the date of transmittal of the international search report.

Where? Directly to the International Bureau of WIPO, 34 chemin des Colombettes
1211 Geneva 20, Switzerland, Facsimile No.: +41 22 740 14 35

For more detailed instructions, see the notes on the accompanying sheet.
2. ☐ The applicant is hereby notified that no international search report will be established and that the declaration under Article 17(2)(a) to that effect and the written opinion of the International Searching Authority are transmitted herewith.
3. ☐ With regard to the protest against payment of (an) additional fee(s) under Rule 40.2, the applicant is notified that:
 - ☐ the protest together with the decision thereon has been transmitted to the International Bureau together with the applicant's request to forward the texts of both the protest and the decision thereon to the designated Offices.
 - ☐ no decision has been made yet on the protest; the applicant will be notified as soon as a decision is made.

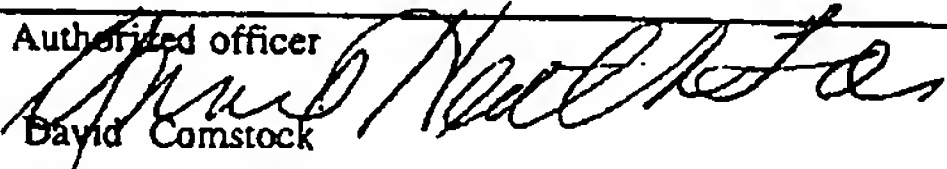
4. Reminders

Shortly after the expiration of 18 months from the priority date, the international application will be published by the International Bureau. If the applicant wishes to avoid or postpone publication, a notice of withdrawal of the international application, or of the priority claim, must reach the International Bureau as provided in Rules 90bis.1 and 90bis.3, respectively, before the completion of the technical preparations for international publication.

The applicant may submit comments on an informal basis on the written opinion of the International Searching Authority to the International Bureau. The International Bureau will send a copy of such comments to all designated Offices unless an international preliminary examination report has been or is to be established. These comments would also be made available to the public but not before the expiration of 30 months from the priority date.

Within 19 months from the priority date, but only in respect of some designated Offices, a demand for international preliminary examination must be filed if the applicant wishes to postpone the entry into the national phase until 30 months from the priority date (in some Offices even later); otherwise, the applicant must, within 20 months from the priority date, perform the prescribed acts for entry into the national phase before those designated Offices.

In respect of other designated Offices, the time limit of 30 months (or later) will apply even if no demand is filed within 19 months. See the Annex to Form PCT/IB/301 and, for details about the applicable time limits, Office by Office, see the *PCT Applicant's Guide*, Volume II, National Chapters and the WIPO Internet site.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer  David Comstock Telephone No. (571) 272-4710
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Form PCT/ISA/220 (January 2004)

(See notes on accompanying sheet)

BEST AVAILABLE COPY

PATENT COOPERATION TREATY

PCT

INTERNATIONAL SEARCH REPORT

(PCT Article 18 and Rules 43 and 44)

Applicant's or agent's file reference 110/03833	FOR FURTHER ACTION <small>see Form PCT/ISA/220 as well as, where applicable, item 5 below.</small>	
International application No. PCT/IL04/00923	International filing date (<i>day/month/year</i>) 06 October 2004 (06.10.2004)	(Earliest) Priority Date (<i>day/month/year</i>) 07 October 2003 (07.10.2003)
Applicant DISC-O-TECH MEDICAL TECHNOLOGIES, LTD		

This international search report has been prepared by this International Searching Authority and is transmitted to the applicant according to Article 18. A copy is being transmitted to the International Bureau.

This international search report consists of a total of 3 sheets.



It is also accompanied by a copy of each prior art document cited in this report.

I. Basis of the Report

- a. With regard to the language, the international search was carried out on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
☐ The international search was carried out on the basis of a translation of the international application furnished to this Authority (Rule 23.1(b)).
- b. ☐ With regard to any nucleotide and/or amino acid sequence disclosed in the international application, see Box No. I.
2. ☐ Certain claims were found unsearchable (See Box No. II)
3. ☐ Unity of invention is lacking (See Box No. III)
4. With regard to the title,
☒ the text is approved as submitted by the applicant.
☐ the text has been established by this Authority to read as follows:

With regard to the abstract,



the text is approved as submitted by the applicant.



the text has been established, according to Rule 38.2(b), by this Authority as it appears in Box No. IV. The applicant may, within one month from the date of mailing of this international search report, submit comments to this Authority.

With regard to the drawings,

the figure of the drawings to be published with the abstract is Figure No. 13



as suggested by the applicant.



as selected by this Authority, because the applicant failed to suggest a figure.



as selected by this Authority, because this figure better characterizes the invention.

☐ none of the figures is to be published with the abstract.

INTERNATIONAL SEARCH REPORT

International application No.

PCT/IL04/00923

A. CLASSIFICATION OF SUBJECT MATTER

IPC(7) : A61B 17/56

US CL : 606/72, 80

According to International Patent Classification (IPC) or to both national classification and IPC

B. FIELDS SEARCHED

Minimum documentation searched (classification system followed by classification symbols)
U.S. : 606/72, 80, 73, 79, 84, 85, 104

Documentation searched other than minimum documentation to the extent that such documents are included in the fields searched

Electronic data base consulted during the international search (name of data base and, where practicable, search terms used)
Please See Continuation Sheet

C. DOCUMENTS CONSIDERED TO BE RELEVANT

Category *	Citation of document, with indication, where appropriate, of the relevant passages	Relevant to claim No.
X -- Y	US 5,445,639 A (KUSLICH et al) 29 August 1995 (29.08.1995), see Figures 5-14 and column 3, lines 6-16.	1, 2, 13, 14, 16-24, 26-33 and 35 ----- 3-12, 15, 25 and 34
X -- Y	US 6,224,604 B1 (SUDDABY) 01 May 2001 (01.05.2001), see Figures 1-4 and column 2, lines 20-60.	1, 2, 13, 14, 16-24, 26-33 and 35 ----- 3-12, 15, 25 and 34
X	US 5,374,269 A (ROSENBERG) 20 December 1994 (20.12.1994), entire document.	3-12, 15, 25 and 34 36-72
A	US 1,923,177 A (TUCKER) 22 August 1933 (22.08.1933), entire document.	3-12, 15, 25 and 34
A	US 4,011,602 A (RYBICKI et al) 15 March 1977 (15.03.1977), entire document.	41

☐ Further documents are listed in the continuation of Box C.

☐ See patent family annex.

Special categories of cited documents:	
"A" document defining the general state of the art which is not considered to be of particular relevance	"T" later document published after the international filing date or priority date and not in conflict with the application but cited to understand the principle or theory underlying the invention
"E" earlier application or patent published on or after the international filing date	"X" document of particular relevance; the claimed invention cannot be considered novel or cannot be considered to involve an inventive step when the document is taken alone
"L" document which may throw doubts on priority claim(s) or which is cited to establish the publication date of another citation or other special reason (as specified)	"Y" document of particular relevance; the claimed invention cannot be considered to involve an inventive step when the document is combined with one or more other such documents, such combination being obvious to a person skilled in the art
"O" document referring to an oral disclosure, use, exhibition or other means	"&" document member of the same patent family
"P" document published prior to the international filing date but later than the priority date claimed	

Date of the actual completion of the international search

13 April 2005 (13.04.2005)

Date of mailing of the international search report

13 MAY 2005

Name and mailing address of the ISA/US

Mail Stop PCT, Attn: ISA/US
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Facsimile No. (703) 305-3230

Authorized officer

David Comstock

Telephone No. (571) 272-4710

INTERNATIONAL SEARCH REPORT

International application No.
PCT/IL04/00923

Continuation of B. FIELDS SEARCHED Item 3:

EAST

search terms: ream\$, drill\$, eccentric, inflat\$, depth, limit\$, interfer\$, adhesive, thickening

PATENT COOPERATION TREATY

From the
INTERNATIONAL SEARCHING AUTHORITY

To:
PAUL FENSTER
FENSTER & COMPANY, INTELLECTUAL PROPERTY
2002 LTD.
P.O. BOX 10256
PETACH TIKVA, ISRAEL 49002

PCT

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

(PCT Rule 43bis.1)

Applicant's or agent's file reference 110/03833		Date of mailing (day/month/year) 13 MAY 2005
FOR FURTHER ACTION See paragraph 2 below		
International application No. PCT/IL04/00923	International filing date (day/month/year) 06 October 2004 (06.10.2004)	Priority date (day/month/year) 07 October 2003 (07.10.2003)
International Patent Classification (IPC) or both national classification and IPC IPC(7): A61B 17/56 and US Cl.: 606/72, 80		
Applicant DISC-O-TECH MEDICAL TECHNOLOGIES, LTD		

1. This opinion contains indications relating to the following items:

- ☒ Box No. I Basis of the opinion
- ☐ Box No. II Priority
- ☐ Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- ☐ Box No. IV Lack of unity of invention
- ☒ Box No. V Reasoned statement under Rule 43bis.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- ☐ Box No. VI Certain documents cited
- ☐ Box No. VII Certain defects in the international application
- ☐ Box No. VIII Certain observations on the international application

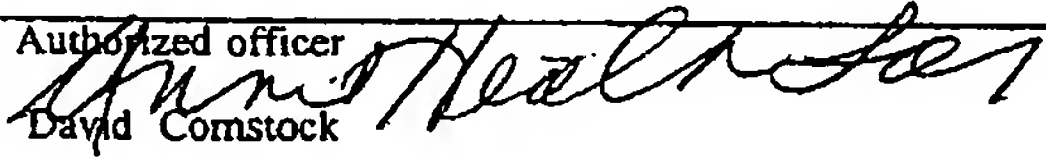
2. FURTHER ACTION

If a demand for international preliminary examination is made, this opinion will be considered to be a written opinion of the International Preliminary Examining Authority ("IPEA") except that this does not apply where the applicant chooses an Authority other than this one to be the IPEA and the chosen IPEA has notified the International Bureau under Rule 66.1bis(b) that written opinions of this International Searching Authority will not be so considered.

If this opinion is, as provided above, considered to be a written opinion of the IPEA, the applicant is invited to submit to the IPEA a written reply together, where appropriate, with amendments, before the expiration of 3 months from the date of mailing of Form PCT/ISA/220 or before the expiration of 22 months from the priority date, whichever expires later.

For further options, see Form PCT/ISA/220.

3. For further details, see notes to Form PCT/ISA/220.

Name and mailing address of the ISA/ US Mail Stop PCT, Attn: ISA/US Commissioner for Patents P.O. Box 1450 Alexandria, Virginia 22313-1450 Facsimile No. (703) 305-3230	Authorized officer  David Cornstock Telephone No. (571) 272-4710
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WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.

PCT/IL04/00923

Box No. I Basis of this opinion

1. With regard to the language, this opinion has been established on the basis of the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This opinion has been established on the basis of a translation from the original language into the following language _____, which is the language of a translation furnished for the purposes of international search (under Rules 12.3 and 23.1(b)).
2. With regard to any nucleotide and/or amino acid sequence disclosed in the international application and necessary to the claimed invention, this opinion has been established on the basis of:
- a. type of material
- ☐ a sequence listing
- ☐ table(s) related to the sequence listing
- b. format of material
- ☐ in written format
- ☐ in computer readable form
- c. time of filing/furnishing
- ☐ contained in international application as filed.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority for the purposes of search.
3. ☐ In addition, in the case that more than one version or copy of a sequence listing and/or table relating thereto has been filed or furnished, the required statements that the information in the subsequent or additional copies is identical to that in the application as filed or does not go beyond the application as filed, as appropriate, were furnished.

4. Additional comments:

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
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Box No. V Reasoned statement under Rule 43 *bis*.1(a)(i) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims <u>3-12, 15, 25 and 34</u>	YES
	Claims <u>1, 2, 13, 14, 16-24, 26-33 and 35-72</u>	NO
Inventive step (IS)	Claims <u>NONE</u>	YES
	Claims <u>1-72</u>	NO
Industrial applicability (IA)	Claims <u>1-72</u>	YES
	Claims <u>NONE</u>	NO

2. Citations and explanations:

Please See Continuation Sheet

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/IL04/00923

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

V. 2. Citations and Explanations:

Claims 1, 2, 13, 14, 16-24, 26-33 and 35 lack novelty under PCT Article 33(2) as being anticipated by KUSLICH et al. (US 5,445,639 A).

KUSLICH et al. disclose a surgical reamer 22 comprising an elongate body, and an expandable head 24 having variable radial dimensions (see, e.g. Figures 11 and 12). The head rotates to crush or drill bone and form an opening therein. The device includes a sleeve that serves to limit the depth the device can be inserted into the bone. The device could be inflated, i.e., filled with air, if so desired. The device could be rotated in either direction and configured to remove different amounts of bone in each direction. The end can serve as a shearing-type drilling device at its outer circumferential vertex. (See Figures 5-14 and column 3, lines 6-16).

Claims 1, 2, 13, 14, 16-24, 26-33 and 35 lack novelty under PCT Article 33(2) as being anticipated by SUDDABY (US 6,224,604 B1).

SUDDABY discloses a surgical reamer 10 comprising an elongate body 12, and an expandable head 20 having variable radial dimensions. The head rotates to crush or drill bone and form an opening therein. The device includes a sleeve 16. The top end 28 of the sleeve is capable of limiting the depth that the device is inserted into bone. The sleeve could be inflated, i.e., filled with air, if so desired. The device could be rotated in either direction and configured to remove different amounts of bone in each direction. The end can serve as a shearing-type drilling device at its effective outer circumferential vertex. (See Figures 1-4 and column 2, lines 20-60).

Claims 36-72 lack novelty under PCT Article 33(2) as being anticipated by ROSENBERG (US 5,374,269 A)

ROSENBERG discloses methods and instruments for ACL reconstruction comprising forming a tunnel with an expansion region in bone, inserting soft material into the region, and fixating soft tissue in the tunnel. The invention includes various modes of attachment comprising interference means, ingrowth means, cementing, etc. Materials for the attachment means comprise any known material for such devices including autogenous, lyophilized, and synthetic bone. The invention includes various ligaments spanning between the attachment means. (See entire document.)

Claims 3-12, 15, 25 and 34 lack an inventive step under PCT Article 33(3) as being obvious over KUSLICH et al. (US 5,445,639 A).

KUSLICH et al. disclose the claimed invention except for disposing the axis of the device at an offset or eccentric location. It would have been obvious to a person of ordinary skill in the art to dispose the axis at an offset or eccentric location as this merely involves the relocation of parts of the invention, which only requires routine skill. Moreover, it is old and well-known to provide eccentric reaming tools for more precise and efficient reaming.

Claims 3-12, 15, 25 and 34 lack an inventive step under PCT Article 33(3) as being obvious over SUDDABY (US 6,224,604 B1).

SUDDABY discloses the claimed invention except for disposing the axis of the device at an offset or eccentric location. It

WRITTEN OPINION OF THE
INTERNATIONAL SEARCHING AUTHORITY

International application No.
PCT/IL04/00923

Supplemental Box

In case the space in any of the preceding boxes is not sufficient.

would have been obvious to a person of ordinary skill in the art to dispose the axis at an offset or eccentric location as this merely involves the relocation of parts of the invention, which only requires routine skill. Moreover, it is old and well-known to provide eccentric reaming tools for more precise and efficient reaming.

Claims 1-72 meet the criteria set out in PCT Article 33(4), and thus have industrial applicability because the subject matter claimed can be made or used in industry.